

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

In re:

CONGOLEUM CORPORATION, *et al.*,  
  
Debtors and Debtors-in-Possession.

CONGOLEUM CORPORATION, Debtor-in-  
Possession,

Plaintiff,

v.

ARTHUR J. PERGAMENT, as the Collateral  
Trustee of the Collateral Trust, *et al.*,

Defendants.

CONGOLEUM CORPORATION, *et al.*,

Appellant,

v.

PERGAMENT, *et al.*

Appellees.

Chapter 11  
Case No. 03-51524 (KCF)  
Jointly Administered

Adv. Proc. No. 05-06245

RECEIVED

MAR 24 2008

AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH  
CLERK

Case No. 3:08-cv-01151-FLW

**CONSENT ORDER**

WHEREAS Congoleum Corporation is in Chapter 11 proceedings captioned *In re Congoleum Corporation, Congoleum Sales, Inc. and Congoleum Fiscal, Inc.*, Case No. 03-51524 (KCF) administered by the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court");

WHEREAS on December 2, 2005, the above-captioned Debtors initiated an Omnibus Adversary Proceeding in the Chapter 11 proceedings, Case No. 05-06245 (the "Omnibus Adversary Proceeding");

WHEREAS on August 27, 2007 the Bankruptcy Court entered an Order Granting Summary Judgment in Favor of Plaintiff on counts V and VI of the Second Amended Complaint (the "August 2007 Order") [Omnibus Adversary Proceeding Docket No. 156];

WHEREAS on January 25, 2008 the Bankruptcy Court entered an Order Denying Summary Judgment to Debtors and Granting Summary Judgment in Favor of Defendants on Counts XVII, XVIII, XIX, and XX of the Third Amended Complaint in the Omnibus Adversary Proceeding ("Order Denying Summary Judgment") [Omnibus Adversary Proceeding Docket No. 266];

WHEREAS on February 1, 2008 the Official Committee of Bondholders (the "Bondholders' Committee") of Congoleum Corporation and its affiliated debtors, a plaintiff<sup>1</sup> in the Omnibus Adversary Proceeding, in order to preserve appellate rights, filed a Notice of Appeal to this Court appealing the Order Denying Summary Judgment [Omnibus Adversary Proceeding Docket No. 274];

WHEREAS on February 4, 2008 the above-captioned Debtors filed a Notice of Appeal to this Court appealing the Order Denying Summary Judgment [Omnibus Adversary Proceeding Docket No. 277];

WHEREAS on February 5, 2008 the Bondholders' Committee, along with R. Scott Williams as Futures Representative, the above-captioned Debtors, and the Asbestos Claimants' Committee, filed a Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code ("Joint Plan") and a Disclosure Statement with Respect to the Same [Bankruptcy Court Docket Nos. 6166 and 6167, respectively];

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<sup>1</sup> The Bondholders' Committee is a plaintiff-intervenor pursuant to the Bankruptcy Court's April 25, 2006 Order Granting the Official Committee of Bondholders' Motion to Intervene Pursuant to 11 U.S.C. § 1109(b) and Federal Rule of Bankruptcy Procedure 7024(a) and (b).

WHEREAS on February 8, 2008 certain defendants (the "Asbestos Defendants") filed a Notice of Cross-Appeal to this Court with respect to the August 2007 Order [Omnibus Adversary Proceeding Docket No. 284];

WHEREAS on February 15, 2008 the Bankruptcy Court entered an Order (I) Approving Disclosure Statement with Respect to Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code of the Futures Representative, the Debtors, the Official Asbestos Claimants Committee and the Official Committee of Bondholders for Congoleum Corporation, *et al.*, Dated as of February 5, 2008, (II) Setting Briefing Schedule With Respect to Insurers' Standing to Object to Confirmation of the Proposed Plan, and (III) Scheduling Confirmation Hearing ("Order Approving Disclosure Statement") [Bankruptcy Court Docket No. 6208];

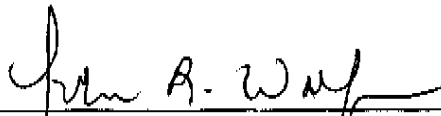
WHEREAS on February 20, 2008 the Bankruptcy Court entered a Revised Order Approving Disclosure Statement [Bankruptcy Court Docket No. 6217]; and

WHEREAS the parties desire to preserve estate resources while working towards confirmation of the Joint Plan;

WHEREAS the parties agree that this Consent Order may be executed by facsimile signature and in multiple counterparts, each of which shall be deemed to be an original, but all of which together will constitute one and the same agreement;

NOW THEREFORE, IT IS HEREBY ORDERED this 24<sup>th</sup> Day of March, 2008 that:

1. The above-captioned appeal is ADMINISTRATIVELY TERMINATED; and
2. If the Joint Plan is not confirmed by October 30, 2008, any party may reopen this action upon written request and all appellate rights, including, but not limited to, all arguments with regard to (i) whether the Order Denying Summary Judgment is a final order and (ii) whether the Asbestos Defendants' appeal of the August 2007 Order is timely, are preserved.

  
HONORABLE FREDA L. WOLFSON,  
UNITED STATES DISTRICT COURT JUDGE

STIPULATED AND AGREED:

TEICH GROH  
Attorneys for the Official Committee of  
Bondholders of Congoleum Corporation, *et al.*

By: \_\_\_\_\_  
Michael A. Zindler

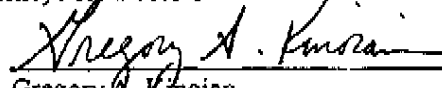
Date: \_\_\_\_\_

LEVITT & SLAFKES, PC  
Attorneys for Certain Defendants<sup>2</sup>

By: \_\_\_\_\_  
Bruce H. Levitt

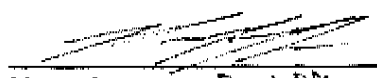
Date: \_\_\_\_\_

OKIN, HOLLANDER & DELUCA, LLP  
Attorneys for Debtors

By:   
Gregory A. Kmoian

Date: March 7, 2008

GOLDSTEIN ISAACSON, PC  
Attorneys for the Unsecured Asbestos  
Claimants Committee

By:   
~~Nancy Isaacson~~ Paul Pflumm

Date: 3-10-08

<sup>2</sup> Attorneys for Certain Defendants listed on Exhibit Nos. 3, 5, 10, 12, 13, 19, 30, 32, 39, 41, 49, 51, 61, 64, 69, 76, 77, 81, 83, 86, 88, and 90, attached to the Third Amended Complaint in *Congoleum Corporation v. Pergament, et al.* Adversary Proc. No. 05-06245 (dkt no. 160).

NOW THEREFORE, IT IS HEREBY ORDERED this 2 Day of March, 2008 that:

1. The above-captioned appeal is ADMINISTRATIVELY TERMINATED; and
2. If the Joint Plan is not confirmed by October 30, 2008, any party may reopen this action upon written request and all appellate rights, including, but not limited to, all arguments with regard to (i) whether the Order Denying Summary Judgment is a final order and (ii) whether the Asbestos Defendants' appeal of the August 2007 Order is timely, are preserved.

HONORABLE FRED A. WOLFSON,  
UNITED STATES DISTRICT COURT JUDGE

STIPULATED AND AGREED:

TEICH GROH  
Attorneys for the Official Committee of  
Bondholders of Congoleum Corporation, *et al.*

By: Michael A. Zindler

Date: 3/16/08

LEVITT & SLAFKES, PC  
Attorneys for Certain Defendants<sup>2</sup>

By: Bruce H. Levitt

Date: \_\_\_\_\_

OKIN, HOLLANDER & DELUCA, LLP  
Attorneys for Debtors

By: Gregory A. Kmoian  
Gregory A. Kmoian

Date: March 7, 2008

GOLDSTEIN ISAACSON, PC  
Attorneys for the Unsecured Asbestos  
Claimants Committee

By: Nancy Isaacson

Date: \_\_\_\_\_

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NOW THEREFORE, IT IS HEREBY ORDERED this \_\_\_\_ Day of March, 2008 that:

1. The above-captioned appeal is ADMINISTRATIVELY TERMINATED; and
2. If the Joint Plan is not confirmed by October 30, 2008, any party may reopen this action upon written request and all appellate rights, including, but not limited to, all arguments with regard to (i) whether the Order Denying Summary Judgment is a final order and (ii) whether the Asbestos Defendants' appeal of the August 2007 Order is timely, are preserved.

HONORABLE FRED A. WOLFSON,  
UNITED STATES DISTRICT COURT JUDGE

STIPULATED AND AGREED:

TEICH GROH  
Attorneys for the Official Committee of  
Bondholders of Congoleum Corporation, *et al.*

By: \_\_\_\_\_  
Michael A. Zindler

Date: \_\_\_\_\_

LEVITT & SLAPKES, PC  
Attorneys for Certain Defendants<sup>1</sup>

By: \_\_\_\_\_  
Bruce H. Levitt

Date: 3/12/08

OKIN, HOLLANDER & DELUCA, LLP  
Attorneys for Debtors

By: \_\_\_\_\_  
Gregory A. Kinolan

Date: March 7, 2008

GOLDSTEIN ISAACSON, PC  
Attorneys for the Unsecured Asbestos  
Claimants Committee

By: \_\_\_\_\_  
Nancy Isaacson Paul Pflumm

Date: 3-10-08

<sup>1</sup> Attorneys for Certain Defendants listed on Exhibit Nos. 3, 5, 10, 12, 13, 19, 30, 32, 39, 41, 49, 51, 61, 64, 69, 76, 77, 81, 83, 86, 88, and 90, attached to the Third Amended Complaint in *Congoleum Corporation v. Pergament, et al.* Adversary Proc. No. 05-06245 (dkt no. 160).